

**OPINION  
53-41**

July 21, 1953(OPINION)

**ESTATE TAX**

RE: Tax Commissioner to Make Report to County Judge - When

This is in reply to your letter of July 14, 1953, in which you request the opinion of this office as to whether chapter 210 of the 1953 Session Laws requires the Tax commissioner to furnish a statement relating to the income tax liability of a decedent to the State when an application for determination of estate tax is filed in an heirship proceeding or in pursuance of any of the following sections of the North Dakota Revised Code of 1943, as amended: 57-3702 (4), 57-3704, 57-3705, 57-3706, 57-3707 and 57-3708.

Chapter 210 specifically requires that the Tax Commissioner's statement relating to income tax liability of a decedent to the state be furnished to the county judge before a final decree of distribution can be issued in a probate proceeding pending in his court.

While it appears that the Legislature probably intended the Tax Commissioner's statement to be furnished with respect to every application for determination of estate tax, it is the opinion of this office that this was not accomplished and that the County Court may enter a decree establishing heirship or make an estate tax determination in a matter other than a probate proceeding without being furnished this statement by the Tax commissioner.

ELMO T. CHRISTIANSON  
Attorney General